

# EXHIBIT G



## **Transcript of Amy McCart, Ph.D.**

Tuesday, October 24, 2023

*United States of America v. State of Georgia*

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Reference Number: 134597

1 BY MR. BELINFANTE:

2 Q. If a student -- under what circumstances  
3 do you believe that a student would appropriately be  
4 served in a segregated educational setting?

5 A. I have worked for many, many years, just  
6 to give you a little context, with students with a  
7 variety of very significant behavioral challenges and  
8 disabilities. And what I found to be the case is in  
9 very limited numbers, there are certain students who  
10 benefit from small environments that have very  
11 structured learning opportunities, and exposure to  
12 time in general education classrooms, that have less  
13 noise or stimuli in that environment, and that have  
14 access to highly trained specialized educators who  
15 can support their needs.

16 Q. You said highly trained, specialized  
17 educators. What would their training be?

18 A. Teachers, certified educators, certified  
19 teachers in special education and general education  
20 that have an understanding of both standards-based  
21 teaching, effective behavioral supports, effective  
22 teaching and learning processes, understanding, for

1 example, positive behavior interventions and  
2 supports, restorative practices, MTSS, effective  
3 behavior intervention plans, effective and complete  
4 functional -- timely functional behavior assessments,  
5 and effective crisis -- individualized crisis  
6 intervention plans associated with their behavior  
7 plan.

8 Q. Okay.

9 A. To name a few.

10 Q. Sure. For teachers who are not that  
11 highly trained, specialized educators, a teacher in a  
12 sixth grade class, general education class.

13 A. Sure.

14 Q. What type of training is it your opinion  
15 that they would have to have, in order to prevent  
16 unnecessary segregation of students with emotionally  
17 disturbed behavior?

18 A. I'm going to ask you to break that down.  
19 But, first, I would say that we probably want to say  
20 students who have emotional behavior disorders.

21 Q. Okay.

22 A. And then I believe you're asking the

1 question, what would a sixth grade educator --  
2 general education teacher need, in order to prevent  
3 large-scale segregation of students with disabilities  
4 in the State of Georgia?

5 Q. Sure, you can answer that. That's a good  
6 question. I'm not sure it's exactly what I asked,  
7 but that's a great place to start.

8 A. Okay. I don't think an individual  
9 teacher, in and of themselves, could prevent  
10 large-scale systemic segregation. That's an issue of  
11 the system at large, not one individual teacher.

12 Q. Okay. What type of training would that  
13 same teacher need to prevent the unnecessary  
14 segregation of an individual student? So not looking  
15 systemically, but at an individual student with --  
16 and I don't want to -- I'm not -- the phrase you  
17 used, emotional --

18 A. Behavior disorders.

19 Q. Behavior disorders.

20 A. Yeah.

21 Q. Okay.

22 A. Effective supports for students with

1 disabilities who have behavior-related needs respond  
2 best to having general educators who understand high  
3 expectations, effective teaching and learning  
4 practices. All of the typical educational  
5 credentials that I previously mentioned that are  
6 common for certified educators.

7 Additionally, they would need access from  
8 special educators that have the additional variables  
9 that I mentioned earlier, which include special  
10 educators that understand, for example, functional  
11 behavior assessment, behavior intervention programs,  
12 crisis intervention plans, and effective teaching.

13 In addition, those individuals would need  
14 to understand basic general systems of support  
15 provided through the state and the district, such as  
16 tiered systems of support that provide academic,  
17 behavioral, social, emotional, and mental health  
18 supports.

19 Did that get at what you wanted?

20 Q. I think so. You said one of the things  
21 they need is effective practices. Can you identify  
22 those practices?

1 programs, not GNETS programs. How many general  
2 education programs did you look at in the State of  
3 Georgia?

4 A. Well, there are 36 GNETS program located  
5 at school-based sites, or near school-based sites.  
6 And they're considered connected in some form or  
7 fashion to general education sites. While touring  
8 the GNETS wing, or area, or part of the school that  
9 was the GNETS part, I was also able to tour the  
10 general education part.

11 Q. And in touring the general education part,  
12 did you review files of individual teachers to  
13 determine their qualifications and training?

14 A. No.

15 Q. Did the Department of Justice ask you to  
16 make any assumptions or presumptions in preparing  
17 your report?

18 A. No.

19 Q. Prior to being contacted by the Department  
20 of Justice in this case, have you ever provided  
21 consulting services in the State of Georgia?

22 A. No.

1 was not considered when making your report?

2 A. That's correct.

3 Q. In your words, what do you understand the  
4 United States to be seeking as a remedy or as a  
5 judicial order in this lawsuit?

6 A. I can only speak to what I have been asked  
7 to do as a special educator in this case. And in  
8 terms of my recommendations, I can speak to those. I  
9 can't speak to what the Department is trying to do.

10 Q. You have read the complaint in this case,  
11 though, correct?

12 A. Yes.

13 Q. Okay. Generally, what do you understand  
14 the United States to be seeking in this lawsuit, not  
15 remedy or judicial order, if that's what threw you  
16 off, but generally, what do you see the aims of the  
17 lawsuit to be?

18 A. Unless you have the complaint for me to  
19 look at, what I can say is that as an educator and  
20 within the scope of my report -- and again, this is  
21 just what I can remember right here, right now, in  
22 the middle of all of this -- is that the



1 recommendation is -- from my perspective, is to limit  
2 or eliminate systemic segregation across the State of  
3 Georgia within the GNETS program, to provide fair and  
4 equal educational opportunities for students with  
5 behavior-related disabilities in the GNETS program,  
6 and to have the State of Georgia provide an array of  
7 appropriate supports for students with  
8 behavior-related disabilities in the State of  
9 Georgia.

10 Q. How does one define appropriate supports  
11 in this context?

12 A. Yes, that's a really, really big question.

13 Q. Sure.

14 A. So I'm thinking I should take a break and  
15 run to the restroom, but if you want me to answer it  
16 first, I can.

17 Q. Why don't we do this. I want to allow you  
18 to do that for sure. Let me ask it this way, and  
19 maybe it can be a shorter answer.

20 A. Sure.

21 Q. If a judge is to order that the State of  
22 Georgia provide appropriate supports, what does that

1 look like in a judicial order? I'm not asking you to  
2 get into legalese, but, like, if the State of Georgia  
3 is trying to implement an order that says, provide  
4 appropriate supports, what does that look like?

5 MS. TUCKER: Object to form.

6 THE WITNESS: Okay. Again, I can speak to  
7 based on my experience with state education agencies,  
8 over 20 states in the U.S., what I can say in terms  
9 of the role of the state in providing appropriate  
10 supports, which is, in general, a system of support  
11 that provides array of effective evidence-based  
12 practices for -- specifically for students who have  
13 disabilities that are along a continuum of support,  
14 not place-based, but rather service-based.

15 And those supports are provided in the  
16 context, based on what the state decides on  
17 student -- students with disabilities needs within  
18 the GNETS program.

19 So what the state does -- decides to do is  
20 up to them. I have made some recommendations, based  
21 on my experience that -- what has worked for  
22 supporting students with disabilities in other states

1 A. That is not right.

2 Q. Okay, which individual students do you  
3 offer an opinion about?

4 A. I offer an opinion about the nearly 3,000  
5 students that are served in the program, specifically  
6 the thousands -- the thousand or so that I observed  
7 directly. But also, there are examples in the  
8 report, in which I detail very specific individual  
9 student cases for review.

10 Q. And did you -- for the thousands of  
11 students you observed directly, you did not read all  
12 of their IEPs, correct?

13 A. That's correct.

14 Q. Are you providing an opinion as to whether  
15 the State of Georgia administers the GNETS program?

16 A. No.

17 Q. What is your understanding about how a  
18 local school district superintendent is hired or  
19 fired in the State of Georgia?

20 A. None.

21 Q. What is your understanding about how a  
22 local educator in a general education setting zoned

1 or may not be called MTSS.

2 BY MR. BELINFANTE:

3 Q. Okay. Roughly how many states -- or  
4 excuse me. Roughly how many states -- and you can  
5 answer in number or percentage -- have not  
6 implemented MTSS at the state level?

7 A. I can speak to the states that I've worked  
8 with, which is approximately 20. And I can name some  
9 of those, if you'd like, that have worked on  
10 implementing a system of support.

11 Q. But a system of support, you would agree  
12 with me, is pretty different from MTSS, correct?

13 A. No.

14 Q. MTSS -- how many states that you've worked  
15 with have implemented all the tiers of MTSS at every  
16 school district in their state?

17 A. You're seeking to understand how many  
18 states have implemented all levels of MTSS across all  
19 schools everywhere in the whole United States.

20 Q. In the states -- you said there's about 20  
21 states you've worked with that have implemented MTSS.

22 My question is, of those 20 states, how

1 many have implemented MTSS at every school within  
2 those states, all levels of MTSS?

3 A. I couldn't answer that, sitting here  
4 today. I would have to review data.

5 Q. Where would I find that data?

6 A. I don't know where you would find it.

7 Q. Okay. Where would you find it?

8 A. A variety of sources.

9 Q. Can you be more specific?

10 A. Yes. For example, implementation of PBIS  
11 is an element of MTSS implementation. There are  
12 three tools utilized to assess whether or not PBIS is  
13 in place. One is SET, Schoolwide Evaluation System.  
14 Another, for example, is the tiered intervention  
15 framework.

16 Those tools, just by way of example, are  
17 kept in a database located at the University of  
18 Oregon. And schools opt in to assessing whether or  
19 not their level tiers or levels of support are in  
20 place. So that's one place in which you could find  
21 that data.

22 Another place would be the University of

1 Kansas. There are data -- fidelity data regarding  
2 tiered systems of support, both self-assessments for  
3 schools to utilize, as well as external fidelity  
4 measures, in which the efficacy and fidelity of MTSS  
5 or a system of support is implemented effectively.

6 Additionally, also at the University of  
7 Kansas, there are classroom assessments that look at  
8 the fidelity of implementation of tiered systems  
9 within a classroom. Those are located in a different  
10 center at the University of Kansas, and can provide  
11 support.

12 Also, in Florida, the University of  
13 Southern Florida has a tiered fidelity instrument  
14 that has been utilized to assess the efficacy of  
15 social, emotional learning among many, many, many  
16 other places, tools, and resources.

17 Q. But sitting here today, you can't tell me  
18 a single state where every school district in that  
19 state has implemented MTSS to fidelity; is that  
20 correct?

21 A. Without looking at data, I cannot answer  
22 that question.

1 A. K-12.

2 Q. All right.

3 A. In New Orleans, they're divided by  
4 charter, so it's a little different.

5 Q. All right. What states have you  
6 personally advised? And by state, I mean State  
7 Department of Education, or SEA. I'll use those  
8 interchangeably.

9 A. Okay.

10 Q. And if I'm not doing that correctly,  
11 please tell me.

12 A. Yeah, you are. You are. So I've worked  
13 with Mississippi, New Hampshire, Vermont, Oregon,  
14 Maryland, North Carolina, California. Give me a  
15 moment, I'm running through in my mind.

16 Q. Sure.

17 A. Did I say Wyoming?

18 Q. No.

19 A. Delaware, Wisconsin, New York, San Diego.  
20 Not a state, but -- Oklahoma, Idaho, the State of  
21 Washington, Washington, DC, Louisiana, among others.

22 Q. Okay. The recommendations that you make

1 in your report beginning on page 160. And  
2 specifically, I'm going to refer to the recommended  
3 actions, which begin on 163. Five of them. Have any  
4 of the states that you just identified implemented  
5 all five recommended actions?

6 A. These actions are in reference to the  
7 State of Georgia, and I would have to look at data  
8 sources to know whether or not the level or efficacy  
9 of how those strategies, and to what degree might  
10 have been implemented in other states. But the  
11 recommended actions that you're referencing are  
12 commonplace in -- at the SEA level.

13 Q. Commonplace in the states you've advised,  
14 or commonplace across nation?

15 A. Across the nation.

16 Q. When did MTSS -- well, let's back up a  
17 second. Can you -- and you may have -- all right.  
18 You define MTSS on page 6 of your report, is that  
19 correct? For purposes of the report at least?

20 A. I do define it on page 6 of the report.

21 Q. And what was -- how did you arrive at that  
22 definition?



1 educational services through. And that has -- that  
2 is common across definitions. For example, using  
3 data to make decisions, having effective tiers of  
4 support in which students can move in and out of, et  
5 cetera, et cetera, et cetera.

6 BY MR. BELINFANTE:

7 Q. But there is not a standard definition  
8 applied across the country?

9 A. I don't know what you're referencing in  
10 terms of a standard.

11 Q. Are you familiar with the IDEA?

12 A. Yes.

13 Q. Are you familiar with the term free and  
14 public education, or FAPE?

15 A. I'm pausing for a minute.

16 Q. Sure.

17 A. Yes.

18 Q. Okay. Is there a standard definition of  
19 FAPE applied across the country?

20 A. I don't know.

21 Q. Okay.

22 A. Let me say, I can't recall right now.

1 State of Georgia on an IEP team?

2 A. I don't know.

3 Q. Okay. To your knowledge, are any members  
4 of the Department -- or any employees of the  
5 Department of Community Health members of a state IEP  
6 team -- or members of an IEP team for students in  
7 Georgia?

8 A. I don't know.

9 Q. How about the Department of Behavioral  
10 Health? To your knowledge, are there any members or  
11 employees of the Department of Behavioral Health who  
12 serve on IEP teams in Georgia?

13 A. I don't know.

14 Q. Okay. If a parent -- and is it your  
15 understanding that an IEP team makes a recommendation  
16 for an individual student, and an IEP plan or a plan  
17 on how that student should receive educational  
18 services?

19 A. Can you restate that? I mean, repeat it.

20 Q. Sure. Let me ask it this way. What is  
21 your understanding of what an IEP team does, in terms  
22 of making recommendations for students, or plans?

1           A.       An IEP team is charged with monitoring  
2       current levels of progress of students, understanding  
3       student need, providing recommendations for student  
4       learning, and offering suggestions regarding  
5       adaptations, modifications, or additional related  
6       supports that a student might need. An IEP team is  
7       only able to offer what is available for students to  
8       participate in.

9           Q.       If a parent is dissatisfied with an IEP  
10       team's recommendation, what is your understanding of  
11       any remedies or rights they may have to challenge it?

12          A.       I can speak, again, from an educator's  
13       perspective on that topic, that the parent, if  
14       unsatisfied with an IEP decision, has the opportunity  
15       to -- I can't think of the exact word, but they have  
16       the ability to express concern over that decision.

17                   What I found in the documents, that there  
18       were no -- if a parent expressed concern, for  
19       example, in this case with the GNETS program, there  
20       were not other options available.

21          Q.       Are you familiar with what's called a due  
22       process hearing?

1 Do you know if an IEP team is supposed to  
2 look at what is the least restrictive environment  
3 appropriate for the needs of that student?

4 A. The IEP team should consider the  
5 environment in which a student is learning, yes.

6 Q. What factors go into determining what is  
7 the least restrictive environment appropriate for the  
8 needs of a student, do you know?

9 MS. TUCKER: Object to form.

10 BY MR. BELINFANTE:

11 Q. Or have an opinion on it?

12 A. Factors as it relates to this case that go  
13 into making a decision regarding the least  
14 restrictive environment are related to what are the  
15 available supports and services to meet students'  
16 needs who have behavior-related disabilities.

17 Q. And that is determined by the IEP team,  
18 correct?

19 A. The supports and services that are  
20 available are determined by the entirety of the  
21 educational system, starting with the vision,  
22 guidance, and leadership at the State Department of

1 Education, then shared with local education agencies,  
2 in terms of, again, that system of support that is in  
3 place. That is then utilized by an IEP team about  
4 what supports can be put into place because of their  
5 availability.

6 So, for example, if an IEP team thought  
7 that a student would be successful if they had staff  
8 from the GNETS program coming into one of their  
9 classrooms, as indicated in the GNETS rule, but that  
10 is not an option because the only option in the  
11 region is a center-based location, then that IEP team  
12 is sort of put in a position to make the  
13 recommendation of the center-based location, because  
14 that's all that's available.

15 Does that make sense?

16 Q. Mm-hmm.

17 A. Okay.

18 Q. When the IEP team is looking at that,  
19 though, it's based on the needs of an individual  
20 student, correct?

21 A. When an IEP is happening, is it based on  
22 an individual student?

1 So not that, but the second part you're asking is  
2 what?

3 BY MR. BELINFANTE:

4 Q. What I'm -- all right. Then forget the  
5 criticism part. Is it your opinion that every time  
6 an IEP team in the State of Georgia recommends that a  
7 student go to a GNETS facility that is separate and  
8 freestanding, that that constitutes unnecessary  
9 segregation?

10 A. If you were to say that any -- if an IEP  
11 team recommends a segregated setting, based on the  
12 individual needs, would I consider that to be  
13 unnecessary? No. The concern here is that you said  
14 within the GNETS program. And the GNETS program, as  
15 indicated in finding 3, is failing to provide the  
16 services that it's using to justify its existence.

17 So, for example, they aren't providing  
18 opportunities for equal learning, they aren't  
19 providing opportunities for learning with peers, et  
20 cetera.

21 Q. Is it your opinion that the GNETS, as you  
22 just described it, is not providing a free and public

1 education to the students in that program?

2 MS. TUCKER: Object to form.

3 THE WITNESS: I'm not -- I did not look at  
4 the application of FAPE in the context of the GNETS  
5 program. What I can tell you is the GNETS centers  
6 and school-based sites are not even considered  
7 schools. They're considered entities.

8 And so when asking whether or not students  
9 within the GNETS program are having an effective  
10 education, or whether or not they're unnecessarily  
11 segregated, it's very difficult to say that they are  
12 not.

13 BY MR. BELINFANTE:

14 Q. What is the basis of -- you said they're  
15 not considered schools. Can you explain that?

16 A. Yes, that's also in here.

17 Q. Okay. Why don't we look for that at  
18 lunch, too.

19 A. Okay. They're considered entities.

20 Q. If a school fails to deliver effective  
21 behavioral and therapeutic supports, does that school  
22 also fail to provide a free and public education?

1 MS. TUCKER: Object to form.

2 THE WITNESS: Can you say that again?

3 BY MR. BELINFANTE:

4 Q. Sure. If a school fails to deliver  
5 effective behavioral and therapeutic supports, would  
6 that school also deprive students of a free and  
7 public education?

8 MS. TUCKER: The same objection.

9 THE WITNESS: I -- I don't understand the  
10 question.

11 BY MR. BELINFANTE:

12 Q. You're familiar with the phrase free and  
13 public education?

14 A. Free and appropriate public.

15 Q. Appropriate, thank you.

16 A. Yes, I am.

17 Q. This is why you said FAPE, and I should  
18 have just stuck to FAPE.

19 A. It's easier.

20 Q. If a school -- is providing effective  
21 behavioral and therapeutic supports a necessary  
22 element of providing a FAPE?



1           A.       I can't speak to whether or not what I've  
2       talked about in the report relates to FAPE.

3           Q.       I'm not asking you about the report. I'm  
4       asking you about your opinion, generally. Is your  
5       opinion generally that if a school district fails to  
6       provide effective behavior and therapeutic supports,  
7       it cannot deliver a FAPE?

8                   MS. TUCKER: Object to form.

9                   THE WITNESS: I am just not sure how to  
10      answer that right now, sitting here.

11      BY MR. BELINFANTE:

12           Q.       Do you find that providing effective  
13      behavior and therapeutic supports is a necessary  
14      element of a FAPE?

15                   MS. TUCKER: The same objection.

16                   THE WITNESS: If you were saying school,  
17      schooling experience, or something of that nature, I  
18      can probably go where you're going. But I don't know  
19      when you're asking what constitutes a free and  
20      appropriate public education, as it relates to what I  
21      reviewed within this case? I don't -- I can't.

22      BY MR. BELINFANTE:

1 Q. Yeah, and I think that's where we're  
2 disconnecting. I'm not asking about the report.

3 A. Okay.

4 Q. I'm asking -- yeah, in your professional  
5 opinion, if a school is not providing effective  
6 behavior and therapeutic supports, could it provide a  
7 free and appropriate public education?

8 MS. TUCKER: Object to form.

9 THE WITNESS: Free and appropriate public  
10 education. I'm thinking.

11 BY MR. BELINFANTE:

12 Q. Sure.

13 A. Can we come back to that?

14 Q. Could you provide me an answer now, and  
15 then we can come back to it, and you can correct the  
16 answer later?

17 A. Sure.

18 Q. And I'm sorry that I have to do that.  
19 That's just kind of standard.

20 A. No problem, no problem.

21 Q. Yeah.

22 A. Again, in the context of being an

1 educator, the provision of a free and appropriate  
2 public education is ever-changing, given what is --  
3 in terms of how you would define a schooling  
4 experience for a child.

5 And so children are allowed to have a free  
6 and appropriate public education. Children are  
7 allowed to have -- should be allowed to have access  
8 to schooling, should be allowed to have opportunities  
9 to learn, regardless of whether or not they have  
10 disabilities. They should be able to engage in  
11 schooling environments and experiences in which their  
12 behavior-related disability does not result in  
13 exclusion from those experiences.

14 So that's what I would say about that.

15 Q. And in order to achieve what you just  
16 described, is it your professional opinion that that  
17 student would need effective behavior and therapeutic  
18 supports in the school system, or delivered to them  
19 in their school?

20 A. It depends on the student.

21 Q. If a school district -- and again, I  
22 realize this is hypothetical, and I'm asking in your

1 professional opinion, unrelated -- you know, not  
2 what's in the report.

3 A. Unrelated to --

4 Q. Right.

5 A. Right.

6 Q. Not what's in the report. In your  
7 professional opinion, if a school district offered no  
8 behavior and therapeutic supports, no PBIS, no MTSS,  
9 no school counselor, no wraparound services,  
10 literally nothing, like just reading, writing,  
11 arithmetic, period, would that school district be  
12 providing a free and appropriate public education, or  
13 FAPE, to all of its students?

14 MS. TUCKER: Object to form.

15 THE WITNESS: The context of that question  
16 is so broad, I can't even hypothetically go there.  
17 There's so many elements to education that I just --  
18 I'm sorry.

19 BY MR. BELINFANTE:

20 Q. Totally fair. Let me ask this. In order  
21 to examine whether a school district is providing a  
22 fair and appropriate -- or free and appropriate -- a

1 FAPE public education, does one necessarily have to  
2 look at the behavioral health and therapeutic  
3 services that are provided?

4 MS. TUCKER: Object to form.

5 THE WITNESS: I don't know.

6 BY MR. BELINFANTE:

7 Q. In order to prevent unnecessary  
8 segregation, is it your professional opinion that one  
9 has to look at the services, behavioral health -- or  
10 excuse me, behavioral and therapeutic services  
11 provided in a school?

12 A. Repeat that, please?

13 Q. Sure. If one is to consider whether a  
14 student is undergoing unnecessary segregation, does  
15 the question turn on the types of services offered  
16 within the school -- unnecessary segregation based on  
17 their -- I want to use the phrase you used --  
18 behavioral disability, is that correct?

19 A. Emotional.

20 Q. Emotional and behavioral health  
21 disability.

22 A. Thank you.

1 Massachusetts?

2 A. Yes.

3 Q. Are you aware that they run schools for  
4 students with autism?

5 A. Yes.

6 Q. And that they are separate facilities?

7 A. Separate from what?

8 Q. Separate from a zoned school, they're  
9 independent freestanding facilities?

10 A. I don't know.

11 Q. If the May Institute or anyone else were  
12 operating freestanding facilities just for students  
13 with autism or traumatic brain injuries, would that,  
14 in every case, constitute unnecessary segregation?

15 A. No.

16 Q. This was that last train of questions, so  
17 we can break for lunch -- or order lunch.

18 Are you familiar with the phrase  
19 reasonable accommodation as it relates to the ADA?

20 MS. TUCKER: Object to form.

21 THE WITNESS: If you're asking me to  
22 define what reasonable accommodation is, no.

1 school district in those states?

2 A. You asked that earlier. I can't remember  
3 what I said earlier.

4 Q. Well, I'm trying to determine, because  
5 you're asking the court to mandate at least five  
6 recommended actions to flow through to every school  
7 district in the State of Georgia. I'm asking to  
8 determine if any state, to your knowledge, has ever  
9 done that.

10 MS. TUCKER: Object to form.

11 THE WITNESS: I'm not asking that. What  
12 I'm asking is that the state establish a vision,  
13 guidance, and support along a full continuum of  
14 services for students with behavior-related  
15 disabilities in the State of Georgia.

16 That is to include things such as  
17 effective social and emotional behavior supports,  
18 effective teaching and learning processes, effective  
19 school climate, effective resources and support,  
20 entitled students with disabilities such as students  
21 without disabilities receive.

22 BY MR. BELINFANTE:

1 practice of what equity-based MTSS is and looks like.

2 And so are these the same words? Yes.

3 Just like I could say teaching in the book and I  
4 could say teaching in the report. And teaching can  
5 look and feel very different, because there is a  
6 continuum of what those practices look like in  
7 reality in the field.

8 Q. Sure. So equity-based MTSS could look  
9 different in Mississippi, New Hampshire, Vermont,  
10 Oregon, Maryland, for example, than it does in  
11 Georgia; is that right?

12 A. Yes.

13 Q. And would MTSS look different as it would  
14 -- in states like that, as it would in Georgia?

15 A. I didn't understand what you said.

16 Q. I was asking about equity-based MTSS in  
17 the immediate prior question. So my follow-up  
18 question is, does MTSS look different in Mississippi,  
19 New Hampshire, Vermont, Oregon, Maryland, for  
20 example, than it would in Georgia?

21 A. I would hope so.

22 Q. And how does one determine fidelity to



1 system and the services provided in that school?

2 A. That's not what I said.

3 Q. Okay.

4 A. What I said is that what determines  
5 student success is academic, behavioral, social,  
6 emotional, and mental health outcomes that are  
7 positive for students.

8 Q. So in order to determine if Georgia is  
9 providing appropriate supports, we look at outcomes.  
10 Is that what you're stating?

11 A. Look at many things. I'm sorry, I  
12 interrupted you.

13 Q. No, but outcomes is one of the things you  
14 look at?

15 A. That is one of the things.

16 Q. What other than outcomes?

17 A. The data early in the report shares some  
18 of that, but time in general education, and in  
19 effective instruction.

20 Q. I'm listening.

21 A. Yeah, I'm looking. Amount and time of  
22 involvement and inclusion with general education with

1 peers, amount of time focused on high expectations  
2 and access to quality, or at least appropriate  
3 environments, such as cafeterias, gymnasiums,  
4 after-school activities, specials, all of the, again,  
5 traditional elements of a schooling experience.

6 Q. Is spending 40 percent of the time in a  
7 general education environment, is that deemed  
8 indicative of effective supports?

9 A. That depends, absolutely, on each child.

10 Q. Okay.

11 A. And their needs.

12 Q. So in order to determine the efficacy of  
13 services, it's an individualized consideration as  
14 well?

15 MS. TUCKER: Object to form.

16 THE WITNESS: No.

17 BY MR. BELINFANTE:

18 Q. So is 40 percent good or not? At one  
19 level, it's not. At one level, it is. I'm trying to  
20 determine when is it an individualized consideration  
21 and when is it a generalized consideration?

22 A. I'm not sure I understand what your

1 question is now.

2 Q. If a child is spending, on average, 40  
3 percent of their time in general education settings,  
4 is that indicative of effective services or is it  
5 indicative of not effective services?

6 A. I don't know that child, so it's  
7 impossible for me to say.

8 Q. So you have to look at the individual  
9 student?

10 A. To what?

11 Q. To determine the efficacy of services.

12 A. It's more than that.

13 Q. Okay.

14 A. That's one variable.

15 Q. So the time spent in general education is  
16 an individual variable. What are general variables?

17 A. That's not what I said. I'm sorry.

18 Q. Then please clarify what you said.

19 A. The variables to indicate the  
20 effectiveness, is that what you're asking?

21 Q. Well, I'm specifically asking about the  
22 time spent in general education. I think you had

1 identified that as one of the things you look at when  
2 considering efficacy.

3 So my question is, if a child is spending  
4 40 percent of their time in general education, is  
5 that indicative of an effective program or an  
6 ineffective program?

7 A. That is not -- there's not a correlation  
8 between that.

9 Q. Okay.

10 A. Because there are a number of variables  
11 that determine whether or not an educational  
12 placement is effective.

13 Q. And those variables are individualized in  
14 their -- you have to consider how those variables  
15 impact the individual child; is that right?

16 A. Well, whether or not -- one example I gave  
17 is the presence of a cafeteria. I don't think that's  
18 an individual determination. But a student having  
19 access to a cafeteria or a library or after-school  
20 activities is important for their growth,  
21 development, and success.

22 Q. All right.

1           A.       So those are the kinds of variables that  
2       are important from a systemic perspective for student  
3       success that can be correlated with time in a quality  
4       educational environment.

5           Q.       Are there reasons, though, that a student  
6       would not be given access to a cafeteria, and  
7       legitimate, non-discriminatory reasons that they  
8       would not be provided access there?

9           A.       A hypothetical student?

10          Q.       Sure.

11          A.       Is there a hypothetical student that, for  
12       one reason or another, it would be not in their best  
13       interest to access a cafeteria?

14          Q.       Correct.

15          A.       That's right.

16          Q.       Okay.

17          A.       That's very different than a student who  
18       can't access a cafeteria because it's not there.

19          Q.       Understood. And would there be legitimate  
20       reasons -- similar question, but as opposed to  
21       looking at the individual student who has the  
22       emotional/behavioral disability, would there be

1 MR. BELINFANTE: And I just realized my  
2 mic was under the thing. Have you been able to hear  
3 me okay?

4 THE VIDEOGRAPHER: Yeah, I just turned you  
5 up.

6 MR. BELINFANTE: All right. I'm putting  
7 it back on. My apologies.

8 THE VIDEOGRAPHER: No worries.

9 BY MR. BELINFANTE:

10 Q. Would it be appropriate in determining  
11 whether a student has access to a cafeteria to  
12 consider students who are not being segregated from  
13 that cafeteria, and the safety or needs of those  
14 students?

15 MS. TUCKER: Object to form.

16 THE WITNESS: Hypothetically, as an  
17 educator, it's my goal and hope that we're always  
18 attending to the safety and well-being of students.

19 BY MR. BELINFANTE:

20 Q. So that would be an acceptable  
21 consideration?

22 A. I don't know.

1 Q. Does she work with you professionally?

2 A. We have worked together, yes.

3 Q. Did you consult her on your report?

4 A. No.

5 Q. Let's go back to your -- what is your  
6 training in statistical analysis?

7 A. I'm a senior researcher at a Research I  
8 university in the top rated -- one of the top rated  
9 universities in special education. And that includes  
10 a comprehensive and thorough course load and  
11 experience in conducting large-scale, systemic  
12 reviews, including statistical analyses.

13 Q. And what is your training that has  
14 provided you an opportunity to do that?

15 A. A doctoral degree.

16 Q. In statistics?

17 A. A doctoral degree in special education, in  
18 which statistical analyses and statistical courses  
19 are part of that process.

20 Q. Hypothetically, in your experience  
21 involving statistics, would a study about 15 students  
22 with autism in one area of one state constitute a

1 statistically significant sample?

2 A. It very well could, yes.

3 Q. And on what basis could it?

4 A. Hypothetically, it could be any number of  
5 things.

6 Q. What does statistically significant mean  
7 to you?

8 A. Sitting here, I can't recall the specific  
9 definition, because it is deeply complex, and it can  
10 include variables, such as different methodologies,  
11 different variables, different independent, dependent  
12 variables. It can -- the -- how the sample was  
13 selected. A variety of other elements can determine  
14 statistical significance.

15 Q. Forgive me, because this is probably in  
16 your CV, and I just don't know the answer. Were  
17 you -- in 1990, when the ADA passed, where were you  
18 at that time in your career? For all I know, you  
19 were in high school. So, like, don't misunderstand.

20 A. Yeah, let's go with that. No, I had  
21 children by then. Let's see where I was in my career  
22 in 1990.



1 schedules of interaction with others in order for  
2 them to experience success.

3 Q. My question is about the sentence after  
4 the one after that.

5 A. Okay.

6 Q. Which is, "There are a small number of the  
7 1,000 students I observed who have very serious and  
8 extreme behaviors that require highly specialized  
9 teaching and behavioral support."

10 MS. TUCKER: I just want to jump in, it  
11 was "nearly 1,000 students."

12 BY MR. BELINFANTE:

13 Q. Nearly 1,000 students.

14 A. Yes. And it says the same is true in the  
15 GNETS program, that there are a small number of  
16 students who require highly specialized teaching and  
17 behavior support.

18 Q. And that's based on your observations from  
19 10 to 90 minutes of students; is that correct?

20 A. It's based on my observation of students.  
21 It's based on my examination of individual student  
22 records, including IEPs. It's based on my review of

1 -- year over year of student documentation regarding  
2 support and need. It's based on my review of parent  
3 documentation, incident reports, among other  
4 documents.

5 It's also based on the fact that I've  
6 spent an extensive period of time working with  
7 students with a full range of behavior needs, but in  
8 particular, with students who have very significant,  
9 challenging behavior. Therefore, I am adept at  
10 identifying student need in as small a window as ten  
11 minutes to up to, in the case of these observations,  
12 90 minutes.

13 Q. So do you have any -- can you point to  
14 any -- because there's none cited. Can you point to  
15 any peer-reviewed articles that would say you can  
16 observe what a child needs in ten minutes of  
17 observation?

18 A. I can -- well, I don't accept the premise  
19 of what you're asking.

20 Q. You just told me you could observe someone  
21 within ten minutes and make a decision as to what  
22 they needed.

1 A. All of the things I just said.

2 Q. You said it's supposed to --

3 A. They are funding a -- oh, I'm sorry, go  
4 ahead.

5 Q. No, no, go ahead.

6 A. They are funding a program that supports  
7 systemic segregation across the state, 24 regions  
8 across the whole state.

9 Q. If I told you that the United States  
10 Department of Education funds are also going to  
11 GNETS, is the United States Department of Education  
12 also responsible for what you describe as unnecessary  
13 segregation?

14 A. I don't know about that.

15 Q. I'm asking you to presume that the United  
16 States Department of Education funds are going to  
17 GNETS. If that presumption is true, is the United  
18 States Department of Education causing unnecessary  
19 segregation in the State of Georgia by funding the  
20 program?

21 A. I don't really feel comfortable speaking  
22 hypothetically about what the United States

1 Department of Education is doing or not doing. I'm  
2 not --

3 Q. I'm sorry you feel uncomfortable. I'm  
4 asking you to answer the question.

5 A. I don't know.

6 Q. You don't know.

7 A. Hmm-mm.

8 Q. So if the United States Department of  
9 Education funds the program, you don't know. If the  
10 Department of Education, as you described, funds the  
11 program, it is committing unnecessary segregation.

12 MS. TUCKER: Object to form.

13 BY MR. BELINFANTE:

14 Q. What's the difference?

15 A. I was asked to evaluate the system of  
16 support in the State of Georgia, and that's what I've  
17 done. And that's what I've looked at.

18 Q. I understand. That's not what I'm asking.  
19 I'm asking -- you said the Department of Education is  
20 funding. Putting aside any disagreements on that,  
21 you said, by funding the program, the DOE is leading  
22 to systemic segregation.

1 A. GaDOE.

2 Q. Yes, yes.

3 A. How is GaDOE --

4 Q. Yes.

5 A. The Georgia State Department of  
6 Education --

7 Q. Yes.

8 A. -- perpetuating this.

9 Q. Yes.

10 A. And I said that the state is to provide a  
11 vision, guidance, leadership, professional learning,  
12 all of these array of things, rather than funding a  
13 program that perpetuates systemic segregation.

14 Q. Okay. Putting aside differences in your  
15 previous answer, what you've just described are  
16 things that the Department of Education is not doing.  
17 I'm asking, what is the affirmative thing that the  
18 Department of Education in Georgia is doing to cause  
19 the harms that you describe in your report?

20 MS. TUCKER: Object to form.

21 THE WITNESS: Maybe the easiest way to  
22 answer that is to look at the recommendations to see

1 what would be an effective pathway for the State of  
2 Georgia to -- the Georgia State Department of  
3 Education to follow, in terms of creating a guidance,  
4 vision, policy, direction towards educational  
5 environments that provide a continuum of support.

6 BY MR. BELINFANTE:

7 Q. We will get to that. My question, though,  
8 is about your statement on page 157 that "the State  
9 of Georgia contributes to this hopelessness by  
10 maintaining the GNETS program in its current form."

11 What is the Department of Education in  
12 Georgia doing to maintain the GNETS program in its  
13 current form? Other than not doing the series of  
14 things that you recommend, what is it affirmatively  
15 doing?

16 MS. TUCKER: Object to form.

17 THE WITNESS: I believe that the State of  
18 Georgia is not providing effective vision, guidance,  
19 support, professional learning, and resources to  
20 provide students with disabilities an appropriate,  
21 fair, and equal education along a continuum of  
22 support.

1 BY MR. BELINFANTE:

2 Q. What is the Department of Community Health  
3 doing affirmatively to cause unnecessary segregation  
4 in Georgia education?

5 A. I did not -- I don't know.

6 Q. How about -- go ahead, sorry.

7 A. But that's one. What I said previously,  
8 that's one of many things that I feel the State  
9 Department of Education in Georgia is doing that  
10 helps perpetuate a system that is not effective, but  
11 go ahead.

12 Q. What would it cost the State of Georgia,  
13 in your opinion, to provide sufficient or appropriate  
14 supports for all students currently receiving  
15 services through the GNETS program?

16 A. I did not do any sort of cost analysis,  
17 just to make sure that I'm restating that.

18 Q. Right.

19 A. But based on my experience in implementing  
20 across the U.S. -- different states across the U.S.,  
21 the implementation of my recommendations would cost  
22 the state no more money than what's already being

1 allocated to the services of students with  
2 disabilities, behavior-related disabilities.

3 Q. And the money you're talking about being  
4 allocated is the appropriation to the GNETS program?

5 A. I'm talking about the funding that's  
6 allocated for students with disabilities within the  
7 state, wherever that source is.

8 Q. Did you ever look at a Georgia  
9 appropriations document -- or I'm sorry,  
10 appropriations act of the Georgia General Assembly.

11 A. I do not recall. I don't think so, but I  
12 could have.

13 Q. I didn't see it in Appendix E. So  
14 similarly, do you know how much Georgia spends, as  
15 you just described, on providing care and treatment  
16 for students -- for persons with behavioral and  
17 emotional disabilities?

18 A. In the GNETS program?

19 Q. At all. Didn't you just say that you were  
20 looking broadly at everything?

21 MS. TUCKER: Object to form.

22 BY MR. BELINFANTE:



1 Q. I see one -- and tell me if I'm wrong. I  
2 see the providing fair and equal access to  
3 educational opportunities is almost more qualitative;  
4 that the services -- the criticisms you have of the  
5 GNETS program are the services being provided there  
6 are not effective, among other things.

7 What I guess I'm really trying to get to  
8 is, is it possible to eliminate systemic segregation  
9 and still have schools that provide education for  
10 emotionally/behavior disabled students in a separate,  
11 freestanding environment?

12 MS. TUCKER: Object to form.

13 THE WITNESS: Yeah, I'm not accepting the  
14 premise of what you just said. Is it possible to  
15 have a segregated program for students with  
16 behavior-related disabilities, and still not have  
17 statewide systemic segregation, and have fair and  
18 equal access? Yes, as long as it is related  
19 specifically to effective learning environments that  
20 are matched to student need that are in line with  
21 practices that are common in the field now.

22 BY MR. BELINFANTE:

1 to determine whether or not -- because, again, I'm  
2 asking from the perspective of the state. If the  
3 state were to say, we want to do this, this makes  
4 sense. How does the state know when it has  
5 successfully adopted recommended action 1?

6 A. Recommended action 1, theoretically, a  
7 state would decide, based on the information that  
8 they have before them, what is the direction and  
9 vision for where we want to go with this work? And  
10 they may say, we want to implement a tiered system  
11 within our state, or we already have a tiered system  
12 within our state. We want to beef it up, we want to  
13 do more, we want to allow more student access.  
14 Whatever that is.

15 That is built into an initial guiding  
16 document that the state develops and drafts, that  
17 then becomes a vision for how that work is carried  
18 out within the state through a state implementation  
19 team. And then a state -- I'll just leave it at  
20 state implementation team for now.

21 Q. Okay. When you write on page 163, the  
22 last paragraph -- not full paragraph, beginning with

1 A. -- that reaches the whole system.

2 Q. Okay. Is it fair to say that -- well, how  
3 long do you think it would take the state to develop  
4 state capacity to provide guidance for implementation  
5 of MTSS through direction, policy, and technical  
6 assistance for districts and schools throughout the  
7 state?

8 A. It would depend on what they already had  
9 in place regarding their systems of support for  
10 students already, who are in the general education  
11 system.

12 Q. Do you have an opinion on what supports  
13 are in place for students in the general education  
14 system in Georgia?

15 A. Yes.

16 Q. Okay. So given that understanding, how  
17 long do you think it would take the State Department  
18 of Education to implement recommended action number  
19 1?

20 A. As a general rule, when states begin  
21 implementation of an effort to refine or adjust their  
22 system of support, there is usually an investment of

1 approximately a year in understanding the vision,  
2 direction, and desired destination of the State  
3 Department, and how it would lead.

4 And then second to that -- so that first  
5 year is really about that. The second year is really  
6 focused more on what is it that we have within the  
7 state -- we call it resource mapping. What do we  
8 have within the state already that could help with  
9 the implementation of a system that does not  
10 unnecessarily segregate students or provide unfair,  
11 unequal educational opportunities. So that typically  
12 happens in the second year.

13 The third year is really laying out a  
14 pathway for how the state provides vision, guidance,  
15 direction, and professional learning, and actually  
16 begins implementing a system in which things are  
17 different.

18 Q. What if a school -- what if the State  
19 Department of Education develops the capacity to  
20 provide this training, et cetera, but an LEA says, we  
21 don't want to do it. Do you have an opinion on what  
22 the state could do at that point? And by state, I

1 A. Sure.

2 Q. Did you form an opinion as to whether the  
3 Georgia Department of Education collects sufficient  
4 data to allow LEAs and RESAs to provide sufficient  
5 reports -- supports, not reports -- to students with  
6 emotional and behavioral disabilities?

7 A. I sincerely do not want to ask you to  
8 repeat that question.

9 Q. Let me ask it in a really simple way. And  
10 then if we can go from there.

11 A. There we go.

12 Q. What I'm trying to determine is, is there  
13 more data -- is it your opinion that Georgia  
14 Department of Education should be collecting more  
15 data than it is currently collecting?

16 A. I have reviewed a lot of data from the  
17 Georgia Department of Education, but I have not  
18 reviewed all the data. Therefore, I cannot answer  
19 that question.

20 Q. All right. And in order to determine  
21 whether the local school districts are employing  
22 effective and current universal screening, what

1 specific data should the Georgia Department of  
2 Education be collecting?

3 A. It is common in education for educational  
4 systems to understand and utilize universal screeners  
5 and progress monitoring data in a variety of  
6 different forms. It's -- for lack of a better way of  
7 saying it right now, it's a lot of data on how to  
8 determine student progress.

9 Q. And sitting here today, because you  
10 haven't looked at the full universe of data, you  
11 can't decide if the Georgia Department of Education  
12 is collecting sufficient data to do that. Did I  
13 understand that from earlier?

14 A. Correct.

15 Q. Is there a place that the Georgia  
16 Department of Education could look to, to determine  
17 what is the appropriate criteria of data that it  
18 should be examining in order to implement your  
19 recommended action number 3?

20 A. Yes, but not to conflate that with  
21 progress monitoring and universal screening data,  
22 which is related to student progress.

1 Q. In terms of equal access, what specific  
2 education services and support did you find were  
3 offered, other than -- I think we talked about, in  
4 one example, the speech therapy. In another example,  
5 there was mental health counseling. What specific  
6 services and supports did you find were offered to  
7 students in general zoned schools, but not GNETS?

8 A. That is really all of finding 2.

9 Q. Okay.

10 A. Would you like to go there?

11 Q. I will. And I think I probably will in a  
12 little bit longer, because I think there is a lot in  
13 there that I'm not talking about. So for example,  
14 I'm not talking about gymnasiums, I'm not talking  
15 about the status of the air conditioning thing that I  
16 saw in finding 2.

17 What I'm -- that question that I just  
18 asked was more specific to things -- yes, you  
19 discussed them in finding 2, but it's a narrower  
20 question, if that makes sense.

21 A. Okay. So you're not talking about unfair,  
22 unequal, and harmful facilities?

1 rather than functional curriculum. They had lesson  
2 planning aligned with standards-based instruction on  
3 grade level and appropriate for student age. They  
4 had content mapping, knowing when they were going to  
5 teach what throughout the course of the year. That  
6 was not in place in GNETS program sites. There was a  
7 lack of learning content and resources in GNETS  
8 programs.

9           Therefore, I think your question was  
10 related to what was in general education sites that  
11 wasn't in GNETS programs, in general, and a lack of  
12 learning content and resources.

13           There was the use -- overuse and reliance  
14 on online instruction in place of certified educators  
15 in GNETS, as opposed to in general education. You'll  
16 have to forgive me. I think I'm switching back and  
17 forth to what has and doesn't have, but it's in the  
18 report.

19           Q.     I'm following you.

20           A.     Okay. Then the general education  
21 environments had what is typical scheduling, master  
22 schedules from students across the spectrum, that was



1 in place. And I can go on, but I'm just wondering if  
2 I could hear the question one more time. I want to  
3 make sure I'm not wandering.

4 Q. Sure. What I'm trying to determine is,  
5 what are the specific services that are offered --  
6 that you conclude are offered in general zoned  
7 schools versus in a GNETS program.

8 A. Okay.

9 Q. And I'm not talking about, again, the  
10 comparative physical plan. That was the piece I'm  
11 excluding.

12 A. Okay, so we're still on the same page.

13 Q. Yeah.

14 A. So additionally, in general education  
15 sites, there is regular access to specials,  
16 connections and exploratory classes. That is not the  
17 case in GNETS sites. Transportation within the GNETS  
18 program is segregated or different from what you find  
19 if you were going to a home school.

20 And I can continue going on and on, if you  
21 would like, including poor school climate and  
22 culture --

1 BY MR. BELINFANTE:

2 Q. Sure. Is there anything in the text of  
3 the GNETS rule that you opine or understand causes  
4 unnecessary segregation?

5 A. I can't draw the line between words in a  
6 rule and unnecessary segregation. There are  
7 certainly concerns when looking at the rule.

8 Q. Okay. Could you identify for me what your  
9 concerns with the rule are?

10 A. And maybe what I meant to say is, concerns  
11 in implementation, and how it plays out within the  
12 GNETS program.

13 So, for example, on the bottom of page 3  
14 of the GNETS rule, sub -- section (4), sub (c), it  
15 says, "The GNETS continuum of services by  
16 environment," and then it proceeds to list one, two,  
17 three, four, five, six possible service provision  
18 and/or placement options for students who are in the  
19 GNETS program.

20 And based on my multi-year review, I was  
21 surprised at the number of students served in --  
22 solely in GNETS centers for the school day, like one

1 through five were skipped.

2 Q. And what is your understanding of who  
3 decides where those students are going to receive  
4 services as in 1 through 6? Is it at the LEA level  
5 or the state DOE level?

6 MS. TUCKER: Object to form.

7 THE WITNESS: As I stated earlier in the  
8 day, if an IEP team is meeting regarding supports and  
9 services for a student who has a behavior-related  
10 disability, they can only offer what's available.

11 So for example, if in North Fannin,  
12 Georgia, the only option available is a center, then  
13 any student in that region that is referred to the  
14 GNETS program has to attend a center, as opposed to  
15 any of the other options that are listed as part of  
16 this rule.

17 BY MR. BELINFANTE:

18 Q. And --

19 A. Therefore, unnecessarily segregated.

20 Q. Okay. And they're unnecessarily  
21 segregated because the service is only provided in  
22 the GNETS facility? Is that what I understand you to

1 Figure D."

2 Q. Okay.

3 A. The sum of that being the -- although the  
4 overall numbers of students in the program are  
5 reducing, the number of students being admitted are  
6 still hundreds a year.

7 Q. Did you consider, in looking at this data,  
8 if the numbers were reducing because students are  
9 graduating, or because students are returning to  
10 their zoned schools, or a combination?

11 A. There are no -- yes, I did consider that.

12 Q. Okay. And what did you find to be the  
13 leading cause of the total number of students in  
14 GNETS declining by almost half, not quite? Almost  
15 half is lawyer math for 4400 to 2995.

16 A. Four minus two. That's half.

17 Q. I had to correct myself before you did it  
18 for me.

19 A. Yeah.

20 Q. But my question is, and I'll repeat it.  
21 Were you able to make a determination as to what  
22 number graduated versus what number returned to their

1 zoned schools?

2 A. There's much more to the picture than  
3 that, as you might expect, in that indicators such as  
4 numbers of referrals to the program may have  
5 decreased. Students being expelled or leaving the  
6 program, but not graduating may have occurred. An  
7 increase in district or regional area ability to  
8 provide supports to students with behavioral related  
9 disabilities without use of the GNETS program. So  
10 there are a number of reasons, including concerns  
11 with the quality of the program and the outcomes  
12 experienced by students in the program.

13 Q. Okay.

14 A. Why those numbers have decreased. Again,  
15 what is of concern is the number of students still  
16 being admitted each year.

17 Q. And does your report -- and I may have  
18 just missed it, but does your report actually explain  
19 or provide an opinion as to why the number has  
20 decreased? And by the number, I mean total students  
21 receiving GNETS services.

22 A. Beyond what I've just stated, I'm not sure

1 that's --

2 Q. Let's look at Figure D on page 16.

3 A. Mm-hmm.

4 Q. Figure D is what you're referring to as  
5 new students being placed in GNETS; is that correct?

6 A. New student placement in the GNETS program  
7 by grade from '15-'16 to '21-'22.

8 Q. Okay. And here, would you agree with me  
9 that the trend is downward from school year '16 to  
10 '17 to school year '21-'22?

11 A. In total student enrollment?

12 Q. Yes.

13 A. Yes.

14 Q. Total new students, I'm sorry, being  
15 admitted.

16 A. Oh, no.

17 Q. Okay.

18 A. The percentage of students being admitted  
19 to the program each year remains the same.

20 Q. I'm sorry, but I'm looking at Figure D,  
21 which is just the raw numbers. I'm not trying to be  
22 tricky. I'm just trying to make sure I understand

1 the graphic.

2 It looks to me -- and am I reading this  
3 correctly, that in school year '16 to '17, there were  
4 898 new admittants to GNETS?

5 A. Mm-hmm.

6 Q. And so in school year '21 to '22, there  
7 were 576?

8 A. Yes. So if the question is, is 898 higher  
9 than the number 576, the answer is yes. When you  
10 look at the proportion, because there are different  
11 data sets. When you look at the proportion of  
12 students, new students enrolled, that's what is  
13 remaining constant at 20 percent.

14 Q. Okay.

15 A. Again, making the point of hundreds of  
16 students being admitted each year.

17 Q. Does your report contain any analysis or  
18 opinion as to why the overall number of new students  
19 has declined from -- and declined consistently from  
20 school year '16 to '17 to school year '21 to '22?

21 A. I'm just going to reference what I said  
22 earlier to the question you asked, which was similar

1 the same rate as the number of students in the  
2 program.

3 Q. Why would you look at that as opposed to  
4 the overall population within the program?

5 A. Because there's a disproportionate impact  
6 on students who enter the program and remain over  
7 multiple years. So you want -- so for example, if in  
8 '21-'22, a new student is admitted to the program,  
9 and that student's a kindergartner, they could be --  
10 data would indicate that there's a likelihood that  
11 that student would remain in the GNETS program for  
12 many, many years.

13 Q. I guess -- and this is why lawyers  
14 shouldn't play statistician for sure. But where I'm  
15 getting confused on that is, if the overall number is  
16 declining and people are coming in, it would seem to  
17 me, based on that -- and the number of people who are  
18 coming in is also declining, that people are cycling  
19 in and out, it would suggest to me that they are  
20 moving in and out, or they're not staying. Because  
21 if they were staying, the overall number would stay  
22 the same, given that there is, as you say, hundreds



1 of people coming in every year.

2 A. Hundreds of children.

3 Q. Yeah. So how am I misunderstanding  
4 your --

5 A. I think maybe -- I know you looked at this  
6 already, but maybe Figure E and F would be more  
7 helpful in understanding that. I think the  
8 misunderstanding is coming -- related to in and out.

9 Q. Okay.

10 A. So when you look, for example, at Figure  
11 E, you see what's highlighted here, second graders in  
12 '15-'16, year after year, 35 percent of those  
13 students remained in the GNETS program for multiple  
14 years.

15 Q. Okay.

16 A. So given the length of time students  
17 remain in the program once admitted, there's a  
18 disproportionate negative impact on the students who  
19 enter the program at a younger age.

20 Q. Okay.

21 A. That's what this graph references.

22 Q. Okay.

1 A. And the same with the next graph. So a  
2 student can just -- the data indicates that students  
3 can be there for many years.

4 Q. And so just to --

5 A. And are.

6 Q. Just so I'm understanding the graphic,  
7 let's take Figure E. In school year '15, there were  
8 247 students admitted in the second grade for the  
9 GNETS program. And by school year '21-'22, of that  
10 247, 88 remained.

11 A. Yes.

12 Q. Am I reading that correctly?

13 A. You are reading that correctly.

14 Q. Okay. Is there anywhere I could go to  
15 look at national data for -- comparative national  
16 data to what I'm seeing in Tables B, C, D, E, and F?

17 A. B, C, D, E, and F.

18 Q. In other words -- let me back up a second,  
19 because I'm looking at this in a vacuum as it relates  
20 to Georgia.

21 A. Right.

22 Q. If I were to look at how -- let's just

1 equal educational opportunities and fair and  
2 appropriate public education?

3 MS. TUCKER: Object to form.

4 THE WITNESS: I think I need you to  
5 restate that.

6 BY MR. BELINFANTE:

7 Q. What's the difference between fair and  
8 equal educational opportunities and fair and  
9 appropriate public education, or FAPE?

10 MS. TUCKER: The same objection.

11 THE WITNESS: I don't know, at this point  
12 in time, that I can articulate that. Right now,  
13 right here.

14 BY MR. BELINFANTE:

15 Q. Okay. Could I ask you to go back to page  
16 8 of your report. And sorry I'm skipping around.  
17 The good news is that means I'm actually finishing.

18 A. Yeah. I mean, take your time.

19 Q. Right.

20 A. Page, I'm sorry, 8 you said?

21 Q. Page 8.

22 A. Mm-hmm.

1 segregation in the school?

2 A. I don't see those as related.

3 Q. Okay. Then I think I misunderstood what  
4 you were talking about a moment ago, when I asked  
5 about how do you quantify or determine what is  
6 readily mental health support?

7 A. I was giving an example of what I saw in  
8 some of the documents in which mental health services  
9 were not provided in the GNETS program, and which  
10 parents sought out mental health services in their  
11 community. So that's what I meant by readily  
12 available.

13 Q. Okay. So is it your opinion that Georgia,  
14 putting aside -- well, is it your opinion that  
15 students should be receiving mental health services  
16 in schools and not outside of the school?

17 MS. TUCKER: Object to form.

18 BY MR. BELINFANTE:

19 Q. If such mental health services would be  
20 appropriate to their needs?

21 MS. TUCKER: The same objection.

22 THE WITNESS: It is my opinion that

1 enabling context. Does that make sense?

2 Q. I think so. And I'm going to ask a  
3 question, because what I'm struggling with is, it  
4 seems like a chicken and egg problem. In other  
5 words, you could do these things, have effective  
6 practice, effective implementation, but if there's  
7 still students in the GNETS program, will it reach  
8 them? Or does what you're describing apply only in  
9 the zoned school to prevent children from having  
10 their IEP team recommend GNETS services? Does that  
11 make sense?

12 A. I understand -- what I understand is that  
13 -- or what I think I understand is that whether or  
14 not a student is in a segregated setting is not the  
15 only determinant of an enabling context.

16 And in the case of the GNETS program, its  
17 large-scale systemic segregation, as you said  
18 earlier, over 24 regional programs across the state,  
19 that systemic part of this equation is what's  
20 problematic. That's what makes it not an enabling  
21 condition.

22 Q. And I should have asked this to start. It

1 is your opinion that the GNETS program is not an  
2 enabling context, correct?

3 A. Correct.

4 Q. As you describe it. Okay. So for those  
5 students in the GNETS program, which you say is not  
6 an enabling context, how does this formula reach  
7 them, if an enabling context is critical to achieving  
8 the socially significant outcomes?

9 A. An enabling context would offer a system  
10 of support that included an array of services that  
11 were not based on placement -- putting students in a  
12 place as an intervention. Rather, building a system  
13 of support in which students had access to the  
14 resources they needed in order to be successful,  
15 particularly for students who have behavior-related  
16 disabilities.

17 Q. Okay.

18 A. It is not -- I'll stop there.

19 Q. You have described systemic adoption of  
20 MTSS as transformational; is that right?

21 A. Where are you referencing?

22 Q. I've cheated. I've read articles and

1 objection. I'm not saying I agree with the  
2 objection.

3 MS. TUCKER: I understand.

4 BY MR. BELINFANTE:

5 Q. For the states that you have worked in and  
6 have done that, is it your conclusion that there is  
7 no unnecessary segregation of students with  
8 emotional/behavioral disabilities in those states?

9 And let me clarify it. By states, I mean  
10 the SEA, the Department of Education, not like if you  
11 did work for a district in the state.

12 A. It's an impossible question to answer.  
13 You've asked if -- it's -- the magnitude is so great  
14 on that question, I can't -- I don't know how to  
15 respond.

16 Q. Okay. Have you worked with the California  
17 Department of Education or school districts within  
18 California, or both?

19 A. Both.

20 Q. Let me show you what we'll mark as Exhibit  
21 8, which is an article, I believe, of yours, as well  
22 as others, from 2022.

1 zoned schools?

2 A. There's much more to the picture than  
3 that, as you might expect, in that indicators such as  
4 numbers of referrals to the program may have  
5 decreased. Students being expelled or leaving the  
6 program, but not graduating may have occurred. An  
7 increase in district or regional area ability to  
8 provide supports to students with behavioral related  
9 disabilities without use of the GNETS program. So  
10 there are a number of reasons, including concerns  
11 with the quality of the program and the outcomes  
12 experienced by students in the program.

13 Q. Okay.

14 A. Why those numbers have decreased. Again,  
15 what is of concern is the number of students still  
16 being admitted each year.

17 Q. And does your report -- and I may have  
18 just missed it, but does your report actually explain  
19 or provide an opinion as to why the number has  
20 decreased? And by the number, I mean total students  
21 receiving GNETS services.

22 A. Beyond what I've just stated, I'm not sure



1 that's --

2 Q. Let's look at Figure D on page 16.

3 A. Mm-hmm.

4 Q. Figure D is what you're referring to as  
5 new students being placed in GNETS; is that correct?

6 A. New student placement in the GNETS program  
7 by grade from '15-'16 to '21-'22.

8 Q. Okay. And here, would you agree with me  
9 that the trend is downward from school year '16 to  
10 '17 to school year '21-'22?

11 A. In total student enrollment?

12 Q. Yes.

13 A. Yes.

14 Q. Total new students, I'm sorry, being  
15 admitted.

16 A. Oh, no.

17 Q. Okay.

18 A. The percentage of students being admitted  
19 to the program each year remains the same.

20 Q. I'm sorry, but I'm looking at Figure D,  
21 which is just the raw numbers. I'm not trying to be  
22 tricky. I'm just trying to make sure I understand

1 full implementation would be something other than  
2 very difficult in the State of Georgia?

3 A. I don't know --

4 Q. Okay.

5 A. -- whether or not that would be very  
6 difficult. As I've outlined in the recommendations,  
7 it requires a commitment, and I can't remember the  
8 exact wording, but an investment. That was the word.  
9 Investment of -- and a belief that MTSS is an  
10 effective strategy for providing supports. And then  
11 having the state outline the vision and guidance for  
12 that implementation across the state.

13 Q. Okay. I understand.

14 A. That journey for Georgia is unique to  
15 Georgia.

16 Q. But is there any reason to believe -- I  
17 understand it's unique to Georgia, but is there any  
18 reason to believe that it would be any easier to  
19 fully implement MTSS at the LEA level in Georgia than  
20 Mr. Choi, and perhaps you as well, in this 2019  
21 article -- I don't know if you were part of the et  
22 al. -- concluded.

1 MS. TUCKER: Object to form.

2 THE WITNESS: Can you say that again?

3 BY MR. BELINFANTE:

4 Q. Sure. And I got lost in citing the  
5 article.

6 A. Go ahead.

7 Q. Is there any reason to believe that the  
8 conclusions that were found in that 2019 Choi  
9 article, that it would be easier to implement and  
10 install MTSS to a full criterion in Georgia than was  
11 the experience in that article?

12 A. From an SEA perspective?

13 Q. From an LEA perspective. Because  
14 ultimately, it's the LEAs that are implementing this,  
15 correct?

16 A. This is a statewide effort of  
17 implementation, statewide scale-up of MTSS. And I  
18 believe this is a reference to how LEAs responded to  
19 the statewide direction, guidance, and vision for  
20 implementing MTSS.

21 Q. Okay.

22 A. And so how -- the sheer magnitude of the

1 recall, so that's the pause here.

2           When you publish an article with  
3 coauthors, there's a bit of a negotiation around the  
4 language that occurs. And so it would be difficult  
5 for me to suggest that the inclusion movement, per  
6 se, has been largely unsuccessful. Certainly there  
7 is more work to be done, so that students could  
8 access general education curriculum. How that  
9 relates to the GNETS case, I'm not sure.

10           Q.     Has the inclusion movement been largely  
11 unsuccessful for students labeled as having severe  
12 disabilities?

13           A.     I just answered that.

14           Q.     You said it has been largely -- you can't  
15 say it's been largely unsuccessful overall, or you  
16 didn't have the limitation about students with severe  
17 disabilities. So my question is about, has the  
18 inclusion movement been largely unsuccessful for  
19 students labeled as having severe disabilities?

20           A.     I think how I might rephrase that is, the  
21 inclusion movement, in general, has been difficult  
22 for students having disabilities, including those

1 Q. So the IEP team is -- in order to have  
2 GNETS services, the IEP team has to determine "that  
3 GNETS services are necessary for the student to  
4 receive FAPE." Do you see that?

5 A. Mm-hmm. Yes, I do see that.

6 Q. So if an IEP team determines that -- and I  
7 realize I'm now asking you a different question than  
8 I just did -- and the state says, no, you can't send  
9 that child to GNETS, the state would be disagreeing  
10 with the IEP team on what is necessary to receive  
11 FAPE. Isn't that correct?

12 A. If you go two bullets down, "The GNETS  
13 continuum of services."

14 Q. Mm-hmm.

15 A. Established by the state talks about the  
16 types of services available within the GNETS program  
17 for IEP teams to consider when thinking about  
18 placement in the GNETS program for student IEP teams.

19 Q. What is the basis of your statement that  
20 the GNETS continuum of services is, quote, provided  
21 by the state?

22 MS. TUCKER: Object to form.

1 THE WITNESS: Can you ask the question  
2 again?

3 BY MR. BELINFANTE:

4 Q. Sure. What is the basis of your statement  
5 made just a moment ago that GNETS "continuum of  
6 services" is provided by the state?

7 A. That the title of this document, Title  
8 160. Rules of the Georgia Department of Education,  
9 Chapter 160-4-7, Special Education. That is my --  
10 that's why I have that perspective.

11 Q. Okay. We talked earlier about your book  
12 and that of others. Actually, before we get there,  
13 what is the National Center on Inclusion Toward  
14 Rightful Presence?

15 A. Sir?

16 Q. Yes.

17 A. How much time is left?

18 Q. I'm not sure.

19 A. Can we ask?

20 THE VIDEOGRAPHER: About -- at 18:24,  
21 you'll be at seven -- seven hours.

22 BY MR. BELINFANTE:

1 11.

2 (McCart Exhibit No. 11 was identified  
3 for the record.)

4 THE WITNESS: I'm not finding --

5 MS. TUCKER: We'll worry about that later.

6 BY MR. BELINFANTE:

7 Q. What don't we try to do here, just for the  
8 ease of record, is put the cover page, and then there  
9 will be specific pages behind. So there's not a  
10 question about the source of the document. And I've  
11 got a copy of it with me if we need to check it,  
12 but --

13 A. You've got a copy of the book?

14 Q. Yes. I hope you get royalties from the  
15 articles, too. Page 1, which is in this Exhibit  
16 Number 11.

17 A. Mm-hmm.

18 Q. Talks about, at the beginning of the book,  
19 "There is confusion, there is sadness, and there is a  
20 restlessness. Mental health services are being  
21 stretched to the limit as our country, grappling with  
22 economic instability, political unrest, and a violent

1 scourge of deadly school shootings, searches for the  
2 answers. Within this storm of uncertainty, and in  
3 direct response to it, we call for sweeping systems  
4 change in education."

5 Do you see that?

6 A. I do.

7 Q. This book was published when? I need to  
8 look. Here it is.

9 A. And tabbed.

10 Q. This book was published, copyright 2023,  
11 so this year. Does that sound right?

12 A. Yes.

13 Q. So is that statement still true?

14 A. Yes.

15 Q. That mental health services are being  
16 stretched -- I'm sorry, you said yes?

17 A. Yes.

18 Q. Okay, perfect. Then I don't have to keep  
19 going.

20 Also true, then, that our system of  
21 education is strained, our teachers and school  
22 leaders are exhausted.



1 A. Yes.

2 Q. Let's look at page 71 of the book, which  
3 we'll mark as Exhibit 12.

4 A. Are we done with this one?

5 Q. Yes. And some of these do not get the  
6 page printed on them, but again, if we want to check  
7 it, the book's here.

8 (McCart Exhibit No. 12 was identified  
9 for the record.)

10 BY MR. BELINFANTE:

11 Q. My question here, because this is 2023, is  
12 in the third full paragraph. It begins with the  
13 sentence, "To be clear, putting MTSS in place in a  
14 school is not easy."

15 Do you see that?

16 A. I do.

17 Q. Do you still agree with that statement,  
18 sitting here today?

19 A. Yes.

20 Q. The last sentence of that paragraph reads,  
21 "This system differs so substantially from  
22 traditional models of school that it requires

1 Q. Yes.

2 A. My report is recommending building state  
3 capacity regarding guidance, vision, and  
4 implementation for -- implementation of MTSS or a  
5 system of support.

6 Q. What is the vision that you're  
7 recommending the State Department of Education adopt?

8 A. That vision is included -- if you'll allow  
9 me a moment.

10 Q. Sure, take your time.

11 A. My vision is located in two places. One,  
12 if you look at page 160, where we talk about -- or  
13 161, where we talk about -- where I talk about the --  
14 I'm sorry, 162, the elimination of statewide systemic  
15 segregation of students with behavior-related  
16 disabilities for the GNETS program, and the provision  
17 of fair and equal access to educational opportunities  
18 for students with behavior-related disabilities.  
19 That's part of the vision that I would hope that the  
20 state would consider.

21 Beyond that, the rest of the vision I  
22 would hope that they would consider is included in

1 the five recommendations and the conclusion of the  
2 report that -- and where I state, I believe in the  
3 educators in the State of Georgia, and I believe that  
4 these educators can and will refine practices to  
5 support students with behavior-related disabilities  
6 who have been marginalized for far too long through  
7 systems of segregation and unfair and unequal  
8 educational opportunities. It is my hope that the  
9 state adopts a vision with guidance from these  
10 actions to do those things.

11 Q. Looking at your amended Appendix E,  
12 Exhibit Number 2.

13 A. I didn't hear you.

14 Q. I'm sorry, looking at your amended Exhibit  
15 E, Exhibit 2.

16 A. I think I'm missing -- that might be one I  
17 lost track of here in the pile.

18 MS. TUCKER: Are you okay with her looking  
19 at mine?

20 MR. BELINFANTE: Sure, that's totally  
21 fine. Yeah, thank you, by the way.

22 BY MR. BELINFANTE:

1 Q. Did you find in any of the deposition  
2 transcripts that you've identified here where a state  
3 official testified that they support systemic  
4 segregation of students with behavior-related  
5 disabilities?

6 A. I can't recall --

7 Q. Okay.

8 A. -- what I read in thousands of words of  
9 transcripts of depositions.

10 Q. That would kind of stick out, though,  
11 wouldn't it, if a state official said, I support  
12 statewide systemic segregation of students with  
13 behavior-related disabilities?

14 A. I don't know.

15 Q. Okay. Did you find any state official  
16 testifying that they opposed providing fair and equal  
17 access to educational opportunities for students with  
18 behavioral-related disabilities?

19 A. I don't recall --

20 Q. So --

21 A. -- at this time.

22 Q. Is it your testimony that the State of

1 Georgia currently has a vision that supports  
2 statewide systemic segregation of students with  
3 behavior-related disabilities?

4 A. That they have a vision?

5 Q. Yes.

6 A. Of statewide systemic segregation?

7 Q. Yes. That they have adopted a vision of  
8 statewide systemic segregation of students with  
9 behavior-related disabilities.

10 MS. TUCKER: Object to form.

11 THE WITNESS: The state has a system of  
12 statewide segregation with unfair and unequal  
13 educational opportunities that is unnecessary and  
14 inappropriate for students with behavior-related  
15 disabilities, and does not provide the services that  
16 it purports to provide. So it's not a vision. It's  
17 actuality.

18 BY MR. BELINFANTE:

19 Q. Is it your testimony that that's  
20 intentional?

21 MS. TUCKER: Object to form.

22 THE WITNESS: I cannot speak to the